

**SOUTH CAROLINA DEPARTMENT OF ADMINISTRATION
GRIEVANCE POLICY AND PROCEDURES**

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. Policy

It is the policy of the Department of Administration (Department or Agency) to grant to all covered employees the opportunity to present and seek answers to a grievance or an appeal without fear of discipline, restraint, coercion, or reprisal. This grievance procedure is in compliance with the State Employee Grievance Procedure Act (Act).

Grievable Actions

As provided for in the Act, covered employees may grieve or appeal terminations, suspensions, involuntary reassignments in excess of thirty (30) miles from the prior work station, and demotions. Reclassifications, reassignments, and transfers are not grievable or appealable. Reclassifications may be grieved or appealed only if the agency, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact that the action is a punitive reclassification. Promotions may not be grieved or appealed except in instances where the agency, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not an agency has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity. However, when the agency promotes an employee one organizational level above the promoted employee's former level, that action is not grievable or appealable by any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered a grievance or appeal.

A salary decrease, based on performance as the result of an EPMS evaluation, is an adverse employment action that may be grieved or appealed. A reduction in force is also an adverse employment action that may be grieved or appealed only if the agency or the State Human Resources Director determines that there is a material issue of fact that the agency inconsistently or improperly applied its reduction in force policy or plan.

II. Procedures

Step One

The grievance must be initiated within fourteen (14) calendar days of the effective date of the adverse action and must be submitted to Office of Administrative Services-Human Resources in writing on the Request for Grievance Review form.

The Department of Administration's Human Resources Director or other designated official shall initially review the grievance to determine whether the matter is grievable under this section. If it is determined that the matter is not grievable, the employee shall be advised in writing by the Executive Director or designee, and such determination shall be final. This decision may be appealed to the State Human Resources Director.

If it is determined that the matter is grievable, it will be handled in accordance with the procedures set forth below. However, any initial determination by the Human Resources Director or other designated official that the matter may be grieved will only entitle the employee to have the matter considered in accordance with the grievance procedures set forth below and will in no way be construed to be an adjudication of the merits of the grievance. In order to comply with the provisions of the Act, the following will be the official procedure of this agency:

Step Two

Upon determination that an action is grievable, Office of Administrative Services-Human Resources shall inform the Grievance Committee Chairman or designee. A committee will be appointed not later than fifteen (15) calendar days from the filing date of the grievance and a conference will then be conducted.

The grievant will receive notice of the conference including the date, time, and place of the meeting. If the covered employee is represented by legal counsel, the Department should be notified at least two (2) days prior to the hearing. This process does not include the right to cross examine witnesses or obtain documents or other evidence from the Department through discovery.

The covered employee has the right to a representative, may represent him or herself, or may be represented by legal counsel at the employee's expense. The conference shall include interviews with the grievant, his or her representative (if any), the appropriate Department personnel, and other individuals the committee believes necessary and appropriate in order to ascertain the facts and make recommendations regarding the fair and equitable disposition of the grievance. At its discretion, the Committee may also examine all documents and review applicable policies/procedures that it deems to be pertinent.

Each party shall submit information before the Committee without the presence of the other. The Agency shall present its case last.

The grievant and/or his or her representative and Department personnel may submit additional documentation for the Committee's consideration and may suggest the names of the individuals with relevant information whom the Committee may interview.

All deliberations of the Committee shall be conducted in private. The Committee's recommendation shall be reached by vote based on a majority of those voting. If either party does not appear at the conference and a postponement has not been approved by mutual written agreement, the conference shall be held at the scheduled time, and the Committee members shall base their recommendation on a review of the record and the presentation of the case by the party present.

The Committee should conclude its work within thirty (30) calendar days of the initial filing of the grievance. The Committee will submit its findings and recommendations to the Executive Director of the Department of Administration or designee.

Step Three

Within fifteen (15) calendar days of receipt of the Committee's recommendation, the Executive Director or designee will issue the final decision in writing to the grievant and the employing Division.

A final decision on a grievance will be issued within forty-five (45) calendar days of the filing of the grievance. Should the time period for the final decision exceed the forty-five (45) calendar day limit, the grievant has the right to appeal to the State Human Resources Director.

The internal time periods of the agency grievance procedure may be waived upon the mutual written agreement of both parties.

III. Grievance Committee

The Department of Administration's Internal Grievance Committee shall be appointed by the Executive Director. The Executive Director shall also appoint a chairperson for the Grievance Committee. The chairperson, or a member designated by the chairperson, shall serve as the presiding officer at all conferences.

The committee shall consist of at least three (3) members. Committee vacancies occurring for any reason shall be filled at the discretion of the Executive Director.

Committee members representing the Division from which the grievance originated shall be disqualified from participating in such conferences. The Committee shall have authority to call for files, records, and other information deemed pertinent to the case, and to call witnesses either on its own authority and/or upon request of the grievant or the employing Division. The Committee may have access to the Office of Administrative Services-Human Resources staff. The Committee may recommend to the Executive Director that the adverse action be rejected, modified, or upheld. After reviewing the Committee's recommendations, the Executive Director will issue the final agency decision concerning the grievance.

IV. Appeal to the State Human Resources Director

The Act provides for an appeal of a grievance beyond the agency to the State Human Resources Director. Any covered employee may appeal the decision of the Executive Director or designee. Such appeal must be in writing and submitted to the State Human Resources Director within ten (10) calendar days of receipt of the agency's final decision or 55 (fifty-five) calendar days from the initial date the grievance was filed, whichever occurs later. As to the 55 (fifty-five) calendar days, the Act provides that a covered employee may appeal directly to the State Human Resources Director in the event the agency does not complete its entire internal grievance procedure with 45 (forty-five) calendar days from the time the grievance is initially filed. Failure by the agency to issue a final decision within this 45 (forty-five) calendar day period is considered an adverse decision. The failure to issue a final decision allows the employee to proceed with an appeal to the State Human Resources Director after 45 (forty-five) calendar days, but within 55 (fifty-five) calendar days from the initial date the grievance was filed. Failure by the covered employee to file an appeal within the time periods referenced in this paragraph shall constitute a waiver of the right to appeal.

V. Policy and Procedure Distribution

This Grievance Policy and Procedures statement shall be distributed to all employees.